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**ENVIRONMENTAL PROTECTION AGENCY
[FRL-9505-2]**

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of Proposed Consent Decree; Request for Public Comment

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by Sierra Club in the United States District Court for the District of Columbia: Sierra Club v. Jackson, No. 1:11-cv-00035-GK (D. D.C.). On June 3, 2011, Plaintiffs filed a complaint alleging that EPA failed to promulgate Federal Implementation Plans (“FIPs”) as mandated by section 110(c)(1)(A) of the CAA, for a number of areas designated as nonattainment for the 1997 8-hour ozone National Ambient Air Quality Standards (“NAAQS”). The complaint also alleged that EPA failed to perform a duty mandated by section 110(k)(2) of the CAA, to take final action by approving in full, disapproving in full, or approving in part and disapproving in part certain State Implementation Plan (SIP) submittals for the 1997 8-hour ozone NAAQS from the States of Maine, Missouri and Illinois. The proposed consent decree establishes deadlines for EPA to take action.

DATES: Written comments on the proposed consent decree must be received by [insert date 30 days after publication date].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2011-0936, online at www.regulations.gov (EPA’s preferred method); by e-mail to

oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Jan Tierney, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-5598; fax number (202) 564-5603; email address: tierney.jan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed consent decree.

The proposed consent decree would resolve a lawsuit seeking to compel the Agency to promulgate a FIP for the implementation of Reasonably Available Control Technology (RACT) requirements for volatile organic compounds (“VOCs”) and NO_x for Maine. Specifically the consent decree provides for EPA to promulgate a FIP by May 31, 2012 for VOC RACT rules for the 1997 8-hour ozone standard for all of the State and NO_x RACT rules for the 1997 8- hour ozone standard for all of the State except Northern Maine to the extent that EPA has not approved SIPs addressing such rules by that date.

In addition, the proposed consent decree would require the Agency to take final action by January 31, 2012 approving in full, disapproving in full, or approving in part

and disapproving in part the SIP submittals from Missouri addressing the VOC RACT requirements for the Missouri portion of the Metro St. Louis area for the 1997 8-hour ozone National Ambient Air Quality Standards. Furthermore, it would require EPA to take final action by May 31, 2012 on the reasonable further progress and attainment demonstration SIPs submitted by the State of Illinois for the Illinois portion of the Metro St. Louis area. This obligation would be deemed met if EPA redesignates the Illinois portion of the Metro St. Louis area to attainment for the 1997 8-hour ozone standard no later than May 31, 2012.

The proposed consent decree also requires that, within 15 business days of signing a proposed or final notice or notices, EPA shall deliver a notice of such action to the Office of the Federal Register for publication. The proposed consent decree states that, after EPA fulfills its obligations under the decree, EPA may move to have this decree terminated.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional information about commenting on the proposed consent

decree.

A. How Can I Get A Copy Of the Consent Decree?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2010-0936) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will

not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your

identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: December 5, 2011.

Patricia A. Embrey
Acting Associate General Counsel

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